

Steven J. Kahn (CA Bar No. 76933)
Harry D. Hochman (CA Bar No. 132515)
PACHULSKI STANG ZIEHL & JONES LLP
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San Francisco, CA 94111-4500
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Attorney for PLC DIAGNOSTICS, INC.,
NATIONAL MEDICAL SERVICES, INC., LDIP,
LLC, REUVEN DUER and ERIC RIEDERS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EUROSEMILLAS, S.A., a Spanish corporation,

Plaintiff/Counter-Defendant,

v.

PLC DIAGNOSTICS, INC., a Delaware
corporation; NATIONAL MEDICAL
SERVICES, INC. dba NMS LABS, a
Pennsylvania corporation; LDIP, LLC, a
Delaware limited liability company; REUVEN
DUER; ERIC RIEDERS; and DOES 1 through
10, inclusive,

Defendants/Counterclaimants.

PLC DIAGNOSTICS, INC., a Delaware
corporation; NATIONAL MEDICAL
SERVICES, INC. dba NMS LABS, a
Pennsylvania corporation; LDIP, LLC, a
Delaware limited liability company; REUVEN
DUER; and ERIC RIEDERS,

Third Party Plaintiffs,

v.

MOHAN UTTARWAR, an individual, and
PIYUSH GUPTA, an individual,

Third Party Defendants.

Case No.: 17-cv-3159-MEJ

**DECLARATION OF STEVEN J. KAHN
RE UNILATERAL CASE
MANAGEMENT STATEMENT**

Date: October 26, 2017
Time: 10:00 a.m.
Place: Courtroom B

1 I, STEVEN J. KAHN, declare:

2 1. I am an attorney at law duly licensed to practice in all courts in the State of California
3 and in this district. I am of counsel to the law firm of Pachulski Stang Ziehl & Jones LLP, attorneys
4 of record for Defendants, Counterclaimants, and Third Party Plaintiffs. The facts stated herein are of
5 my own personal knowledge, and if called upon as a witness, I could and would competently testify
6 thereto.

7 2. After Plaintiff's counsel, Ruchit Kumar Agrawal, did not contact our offices in
8 advance of the October 5, 2017 deadline for scheduling a Rule 26 Conference, on October 11, 2017,
9 Harry Hochman of our offices emailed Mr. Agrawal, reminding him of his Rule 26 obligations and
10 requesting that he contact me to coordinate compliance therewith. Having not received a response
11 by October 16, 2017, I also emailed Mr. Agrawal to contact me, or we would have to proceed
12 unilaterally. A true and correct copy of said emails are attached hereto and incorporated herein by
13 reference as Exhibit "1".

14 3. On October 17, 2017, in reviewing my "spam" box, I noticed that I had received a
15 notification that one of my emails was not delivered. Such notifications are typically received in my
16 Inbox. On transferring that notification to my Inbox, it is stated that Mr. Agrawal's email account
17 had been disabled. A true and correct copy of that notice is attached hereto as Exhibit "2". I
18 requested Mr. Hochman to review his "spam" box from October 12, 2017, and he determined that
19 his October 11, 2017 email had also not been delivered.

20 4. Mr. Hochman and I immediately placed telephone calls to Mr. Agrawal at both the
21 telephone number listed on the pleadings and a different number in Reno, Nevada, that is listed as
22 his telephone number with the State Bar of California, and left a message on both mailboxes that he
23 contact us.

24 5. On October 18, 2017, our offices received a responsive email from Mr. Agrawal
25 confirming that the email address provided to the Court and counsel was no longer a working email
26 address, and that his client is in the process of finding substitute counsel. A true and correct copy of
27 that email is attached hereto as Exhibit "3".
28

STEVEN J. KAHN

EXHIBIT 1

Steven J. Kahn

From: Steven J. Kahn
Sent: Monday, October 16, 2017 10:40 AM
To: Kumar Law (ruchit@kumarlawsv.com)
Cc: Harry Hochman
Subject: RE: Rule 26 obligations

Ruchit,

I do not see that you responded to Harry's email below sent last Wednesday. Although we would prefer not to, we will proceed unilaterally if needs be.

I look forward to hearing from you.

From: Harry Hochman
Sent: Wednesday, October 11, 2017 11:31 AM
To: Kumar Law (ruchit@kumarlawsv.com)
Cc: Steven J. Kahn
Subject: Rule 26 obligations

Ruchit: Steve Kahn, copied here, will be participating in litigating this matter. Initially, as plaintiff's counsel it is incumbent upon you to initiate such things as the Rule 26 conference and related tasks, which you should coordinate with Steve.

Please note that we will soon be filing an amended answer with counterclaims against Eurosemillas, as well as a third party complaint against Mohan Uttarwar and Piyush Gupta.

Hope all is well with you.
Harry

Harry Hochman
Pachulski Stang Ziehl & Jones LLP
Direct Dial: 310.772.2345
Tel: 310.277.6910 | Fax: 310.201.0760
hhochman@pszjlaw.com
[vCard](#) | [Bio](#) | [LinkedIn](#)



Los Angeles | San Francisco | Wilmington, DE | New York

EXHIBIT 2

Steven J. Kahn

From: Mail Delivery Subsystem <mailer-daemon@googlemail.com>
To: ruchit@kumarlawsv.com
Sent: Tuesday, October 17, 2017 9:05 AM
Subject: Undeliverable: Rule 26 obligations

Delivery has failed to these recipients or distribution lists:

ruchit@kumarlawsv.com

An error occurred while trying to deliver this message to the recipient's e-mail address. Microsoft Exchange will not try to redeliver this message for you. Please try resending this message, or provide the following diagnostic text to your system administrator.

Diagnostic information for administrators:

Generating server: googlemail.com

ruchit@kumarlawsv.com

#< #5.0.0 smtp; The email account that you tried to reach is disabled. Learn more at <https://support.google.com/mail/?p=DisabledUser>> #SMTP#

Original message headers:

X-Google-Smtp-Source:
AOwi7QBHmp6ZJ2mQjRQP1oRo5Yasr8t6lxIdlijejCPO7Kaf3dhc2IV/j0KqGrNCU3h0w3nNpPc/
X-Received: by 10.200.20.13 with SMTP id k13mr14540258qtj.261.1508175605784;
Mon, 16 Oct 2017 10:40:05 -0700 (PDT)
ARC-Seal: i=1; a=rsa-sha256; t=1508175605; cv=none;
d=google.com; s=arc-20160816;
b=XthurpjCK/lasWSJ5df/G+Ff5v2mMTs0r+vaUOHDr+TKdrzYFow9kyJXu8rIzK+tyL
iMaW6HI1HiEfAAYZL2/X/uyW8tMtztst1YOVGEOE578fihmF7pRyddkqszcQ/ooEVzIJU
+o0iI8ujgvPGdNTyzUuHickMr+Vw9UHHbk+m1dwOpQVcZe/4vMYZuYdgxmuWzuDJ4EsR
UlfSujVvrnsLBwBymW0P5cOvf+g90KbJ5JVe0RWCHjchwpcjmluuEsAD6hLronTFGRxr
h8S5RbHTffZjhMX+bbtUzxoI932In5jZL8hXnJdJEEej0x0Ss/PBnzi2HAiOAu+eInG8
2trg==
ARC-Message-Signature: i=1; a=rsa-sha256; c=relaxed/relaxed; d=google.com; s=arc-
20160816;
h=mime-version:acceptlanguage:content-language:accept-language
:in-reply-to:references:message-id:thread-index:thread-topic:subject
:date:cc:to:from:arc-authentication-results;
bh=U4cuv5XQrBEL+sW784d6/K2dWgUcRHC2aKgTJUEyMMk=;
b=BLgq4Sw/3jF8raew7SLTxy3FtCJCKFacR2gq3dXyuLb3y8/3kkZemK/W93qb7CedNm
v0h+57bZ+DbEBqoVc7cn8fYzWt+CHnfuAyJLD27E0duKmICSeniVesXdnr9xqIqVzTon
mdof6uzeoIfmcc4VQqKMBry5p2nZEUjke5kHv5kCD48YYeIUY3WqeNmyhcOggjoZfxV9
UNqOGyi59eAKOhpNlbhjLJDefwtDDENup6wbij87ABX80LXLG7DSEB5/AA8LcWgQEdj9
i9Zy/WuK2Vx/1xuJewiRVptDoFq4Fiwfy8E2UULtYh/6xPXz2m6zFyFchXWILW/plg9f
Lffg==
ARC-Authentication-Results: i=1; mx.google.com;

spf=neutral (google.com: 216.205.24.101 is neither permitted nor denied by best guess record for domain of skahn@pszjlaw.com) smtp.mailfrom=skahn@pszjlaw.com
Return-Path: <skahn@pszjlaw.com>
Received: from us-smtp-delivery-101.mimecast.com
(us-smtp-delivery-101.mimecast.com. [216.205.24.101]) by mx.google.com
with ESMTPS id u89si437436qtd.361.2017.10.16.10.40.05 for
<ruchit@kumarlawsv.com> (version=TLS1_2 cipher=ECDHE-RSA-AES128-SHA
bits=128/128); Mon, 16 Oct 2017 10:40:05 -0700 (PDT)
Received-SPF: neutral (google.com: 216.205.24.101 is neither permitted nor denied by best guess record for domain of skahn@pszjlaw.com) client-ip=216.205.24.101;
Authentication-Results: mx.google.com;
spf=neutral (google.com: 216.205.24.101 is neither permitted nor denied by best guess record for domain of skahn@pszjlaw.com) smtp.mailfrom=skahn@pszjlaw.com
Received: from PMGWLA.pszj.com (w083.z208036023.sjc-ca.dsl.cnc.net
[208.36.23.83]) (Using TLS) by us-smtp-1.mimecast.com with ESMTTP id
us-mta-69-3zaHqDQLMB-ZRm_t-cpGhA-2; Mon, 16 Oct 2017 13:40:03 -0400
Received: from PMLA.pszj.com ([:1]) by PMGWLA.pszj.com
([fe80::9cdb:1567:fd3f:9f5e%10]) with mapi; Mon, 16 Oct 2017 10:40:01 -0700
From: "Steven J. Kahn" <skahn@pszjlaw.com>
To: "Kumar Law (ruchit@kumarlawsv.com)" <ruchit@kumarlawsv.com>
CC: Harry Hochman <hhochman@pszjlaw.com>
Date: Mon, 16 Oct 2017 10:39:59 -0700
Subject: RE: Rule 26 obligations
Thread-Topic: Rule 26 obligations
Thread-Index: AdNCusaFOk5e08PhTUyqwqVdx/SPK+wD6cwaQ
Message-ID: <750EF6A6E7AFF242A9E867ECDA8D4D4101FB839F2A02@PMLA.pszj.com>
References: <54CA7BBE34636648B088166A73701C0A047BCDC8BE5E@PMLA.pszj.com>
In-Reply-To: <54CA7BBE34636648B088166A73701C0A047BCDC8BE5E@PMLA.pszj.com>
Accept-Language: en-US
Content-Language: en-US
X-MS-Has-Attach: yes
X-MS-TNEF-Correlator:
acceptlanguage: en-US
MIME-Version: 1.0
X-MC-Unique: 3zaHqDQLMB-ZRm_t-cpGhA-2
Content-Type: multipart/related;
boundary="___004_750EF6A6E7AFF242A9E867ECDA8D4D4101FB839F2A02PMLApszjcom_";
type="multipart/alternative"

EXHIBIT 3

Steven J. Kahn

Subject:

FW: New voicemail from (310) 772-2379 at 9:54 AM

From: Kumar Law [<mailto:kumarlawsv@gmail.com>]

Sent: Wednesday, October 18, 2017 9:28 AM

To: Harry Hochman

Subject: Re: New voicemail from (310) 772-2379 at 9:54 AM

Harry:

Eurosemillas is in the process of finding substitute counsel and the appropriate substitution of counsel form will be submitted to the court.

ruchit@kumarlawsv.com is no longer a working email address. Please feel free to email me at kumarlawsv@gmail.com in the interim as needed until Kumar Law is off this case and a new attorney is on it.

Thanks

On Tue, Oct 17, 2017 at 9:55 AM, Google Voice <voice-noreply@google.com> wrote:



Richard hi, it's Harry. Hockman trying to get a hold of you my number is [310-772-2345](tel:310-772-2345) 772-2345. Thank you. Alright. I'll call you right back.

PLAY MESSAGE

[YOUR ACCOUNT](#)

[HELP CENTER](#)

[HELP FORUM](#)

To edit your email preferences for voicemail, go to the [Email notification settings](#) in your account.

Google

Google Inc.
1600 Amphitheatre Pkwy
Mountain View CA 94043 USA

--

Ruchit Kumar Agrawal, Esq.

| Washington DC 202.807.6180 | Silicon Valley 408.601.0586 |

Please note that I am not licensed to practice law in DC, only in CA. This is an email I use to differentiate the "business development" from the "legal" side of things as much as possible.

KUMARLAW

Unless specifically indicated, nothing in this email should be interpreted as a digital or electronic signature that can be used to form, execute, document, agree to, enter into, accept or authenticate a contract or other legal document. This electronic mail transmission and any attached documents may contain confidential or privileged information for the sole use of the intended recipient(s). Any review, use, distribution or disclosure by anyone other than the intended recipient(s) is strictly prohibited. If you believe that you have received this message in error, please notify the sender by reply transmission and delete or destroy the message without copying or disclosing it.

EXHIBIT 4

Steven J. Kahn

From: Harry Hochman
Sent: Wednesday, October 18, 2017 11:02 AM
To: 'Kumar Law'
Cc: Steven J. Kahn
Subject: RE: New voicemail from (310) 772-2379 at 9:54 AM

Ruchit: To be clear – the Case Management Conference report is due tomorrow. Eurosemillas has an obligation to participate in preparing that report. While you are withdrawing, as of now you remain Eurosemillas' counsel of record. We did not receive a response to our prior email asking whether you as plaintiff's counsel intended to initiate the Rule 26 meeting and as well as preparation of the report, and so assumed that you do not. Based on your email we assume that is still the case; if that is incorrect, please advise immediately.

Harry Hochman
Pachulski Stang Ziehl & Jones LLP
Direct Dial: 310.772.2345
Tel: 310.277.6910 | Fax: 310.201.0760
hhochman@pszjlaw.com
[vCard](#) | [Bio](#) | [LinkedIn](#)



Los Angeles | San Francisco | Wilmington, DE | New York

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PLAY MESSAGE

[YOUR ACCOUNT](#) [HELP CENTER](#) [HELP FORUM](#)

To edit your email preferences for voicemail, go to the [Email notification settings](#) in your account.

Google

Google Inc.
1600 Amphitheatre Pkwy
Mountain View CA 94043 USA

--

Ruchit Kumar Agrawal, Esq.
| Washington DC 202.807.6180 | Silicon Valley 408.601.0586 |

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KUMARLAW

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PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

I, Mary de Leon, am employed in the city and county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 10100 Santa Monica Blvd., 13th Floor, Los Angeles, California 90067.

On October 19, 2017, I caused to be served the ***DECLARATION OF STEVEN J. KAHN RE UNILATERAL CASE MANAGEMENT STATEMENT*** in this action as follows:

- ☐ (BY MAIL) I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- ☐ (BY EMAIL) I caused to be served the above-described document by email to the parties indicated on the attached service list at the indicated email address.
- ☒ (BY NOTICE OF ELECTRONIC FILING) I caused to be served the above-described document by means of electronic transmission of the Notice of Electronic Filing through the Court's transmission facilities, for parties and/or counsel who are registered ECF Users.
- ☐ (BY FAX) I caused to be transmitted the above-described document by facsimile machine to the fax number(s) as shown. The transmission was reported as complete and without error. (Service by Facsimile Transmission to those parties on the attached List with fax numbers indicated.)
- ☒ (BY OVERNIGHT DELIVERY) I caused to be served the above-described document by sending by Federal Express to the addressee(s) as indicated on the attached list.

I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on October 19, 2017, at Los Angeles, California.

/s/ Mary de Leon
Mary de Leon

SERVICE LIST

By FedEx Delivery:

Magistrate Judge Maria-Elena James
San Francisco Courthouse
Courtroom B – 15th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

3:17-cv-03159-MEJ Notice will be sent via NEF/electronically mailed to:

- **Ruchit Kumar Agrawal**
ruchit@kumarlawsv.com
- **Reuven Duer**
ruvduer@gmail.com
- **Harry David Hochman**
hhochman@pszjlaw.com
- **PLC Diagnostics Inc.**
ruvduer@gmail.com
- **Eric Rieders**
Eric.Rieders@nmslabs.com